IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Appeal No. 278 of 2000

Date of decision:10.8.2007

State of Himachal Pradesh **Appellant**

Versus

Jalmi Devi **Respondent**

Coram

The Hon'ble Mr. Justice Deepak Gupta, Judge.

Whether approved for reporting?[1]

For the Petitioner: Mr. M.A. Khan, Deputy Advocate General

For the Respondent: Mr. S.S.Mittal, Senior Advocate, with
Mr. Arvind Sharma, Advocate

Deepak Gupta, J. (Oral)

This appeal by the State is directed against the judgment of the Chief Judicial Magistrate, Lahaul and Spiti at Kullu in Crimial Case No. 169-I of 1997, decided on 13.8.1999. Accused Jalmi Devi was sent to stand trial for having committed an offence under Section 33 (1) (a) of the Indian Forest Act.

The prosecution case in brief is that on 24.8.1996 when Forest Guard, Fateh Chand was patrolling the forest, he found that one deodar tree had been illicitly fell and converted into logs. On inquiry, it is

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[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?***

alleged, he came to know that the tree had been felled by accused Jalmi Devi. Jalmi Devi is alleged to have confessed her guilt by signing Iqbalnama and damage report in presence of witness Hari Singh. Accused Jalmi Devi pleaded not guilty and faced trial.

PW-1, Fateh Chand, Forest Guard, in his statement has repeated what is stated in the complaint. He has no personal knowledge as to who cut the tree. He has submitted that he has prepared damage report Ex. PA and Iqbalnama Ex. PB and then handed over the timber on supurdari to Hari Singh.

PW-2 Rajiv Kumar states that he had asked the accused to pay compensation, but she refused to do so and thereupon her confessional statement Ex. PW-2/A has been recorded.

PW-3, Hari Singh has not supported the prosecution case at all. He states that he has not seen anybody cutting the tree nor any timber was handed over to him. He is the only independent witness. He has not supported the prosecution case at all. The prosecution has not led any evidence whatsoever by examining any of the villagers to show who cut the tree. No reliance can be placed on the Iqbalnama and the statement Ex. PW-2/A

since the only independent witness Hari Singh has denied that he has signed the same. The accused has also denied executing the same. The prosecution has failed to prove that these documents were in fact signed by the accused, Jalmi Devi. Even if it be assumed that the accused had signed these documents it was the duty of the prosecution to have further proved the fact that the statements were voluntary statements made by the accused after fully understanding the import thereof. From the record it is evident that Jalmi Devi is an illiterate rustic villager. None of the witnesses has stated that any attempt was made to explain to her the contents of the documents which she was signing.

In view of the above discussion I am of the considered view that the trial court rightly acquitted the accused. There is no merit in the appeal which is accordingly dismissed. The bail bonds of the accused are discharged.

August 10, 2007(K) (Deepak Gupta), J.